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ADRMOP, CLOSED, TRANSF

U.S. District Court California Northern District (San Francisco) CIVIL DOCKET FOR CASE #: 3:20-cv-04491-JD

W. et al v. Providence Health Plan et al Assigned to: Judge James Donato

Cause: 28:1001 E.R.I.S.A.

Date Filed: 07/07/2020
Date Terminated: 03/15/2022
Jury Demand: Plaintiff

Nature of Suit: 791 Labor: E.R.I.S.A. Jurisdiction: Federal Question

Plaintiff

Mr. Chris W.

represented by David M. Lilienstein

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LEAD ATTORNEY

ATTORNEY TO BE NOTICED

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Plaintiff

Ms. Jennifer W.

represented by David M. Lilienstein

(See above for address) *LEAD ATTORNEY*

ATTORNEY TO BE NOTICED

Katie Joy Spielman

(See above for address)

ATTORNEY TO BE NOTICED

V.

Defendant

Providence Health Plan

represented by Jose Dino Vasquez

Karr Tuttle Campbell 701 5th Avenue, Ste. 3300 Seattle, WA 98104

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Email: tchu@karrtuttle.com TERMINATED: 01/12/2021 ATTORNEY TO BE NOTICED

Defendant

Blue Cross of California

doing business as Anthem Blue Cross represented by Donald Patrick Sullivan

Jackson Lewis P.C.

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415-394-9400 Fax: 415-394-9401

Email: donald.sullivan@jacksonlewis.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Defendant

Providence Health & Services

doing business as Providence

represented by Jose Dino Vasquez

(See above for address) LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Defendant

Intel Corporation

represented by **Donald Patrick Sullivan**

(See above for address) LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Nancy Baughman Pridgen

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PRO HAC VICE

ATTORNEY TO BE NOTICED

Defendant

Intel Corporation Anthem HDHP Plan

represented by Donald Patrick Sullivan

(See above for address) LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Nancy Baughman Pridgen (See above for address) PRO HAC VICE ATTORNEY TO BE NOTICED

e Filed	#	Docket Text
07/2020	Ϊ1	COMPLAINT against All Defendants (Filing fee \$ 400, receipt number 0971–14663659.). Filed byChris W., Jennifer W (Lilienstein, David) (Filed on 7/7/2020) (Entered: 07/07/2020)
07/2020	<u>Ï 2</u>	*** ERRONEOUS ENTRY. SEE 3 *** Civil Cover Sheet by Chris W., Jennifer W (Spielman, Katie) (Filed on 7/7/2020) Modified on 7/8/2020 (mclS, COURT STAFF). (Entered: 07/07/2020)
08/2020	<u> </u>	Civil Cover Sheet by Chris W., Jennifer W (Spielman, Katie) (Filed on 7/8/2020) (Entered: 07/08/2020)
08/2020	<u>Ï</u> 4	Case assigned to Magistrate Judge Joseph C. Spero.
		Counsel for plaintiff or the removing party is responsible for serving the Complaint or Notice of Removal, Summons and the assigned judge's standing orders and all other new case documents upon the opposing parties. For information, visit <i>E–Filing A New Civil Case</i> at http://cand.uscourts.gov/ecf/caseopening.
		Standing orders can be downloaded from the court's web page at www.cand.uscourts.gov/judges. Upon receipt, the summons will be issued and returned electronically. Counsel is required to send chambers a copy of the initiating documents pursuant to L.R. 5–1(e)(7). A scheduling order will be sent by Notice of Electronic Filing (NEF) within two business days. Consent/Declination due by 7/22/2020. (anjS, COURT STAFF) (Filed on 7/8/2020) (Entered: 07/08/2020)
08/2020	<u>Ï 5</u>	Initial Case Management Scheduling Order with ADR Deadlines: Case Management Statement due by 10/2/2020. Initial Case Management Conference set for 10/9/2020 02:00 PM. (mclS, COURT STAFF) (Filed on 7/8/2020) (Entered: 07/08/2020)
08/2020	Ï	Electronic filing error. Anthem Blue Cross should be entered in the 'alias' field and not as part of defendant's name. Corrected by Clerk's Office. No further action is necessary. Re: 1 Complaint filed by Jennifer W., Chris W. (mclS, COURT STAFF) (Filed on 7/8/2020) (Entered: 07/08/2020)
15/2020	<u>Ï 6</u>	Proposed Summons. (Lilienstein, David) (Filed on 7/15/2020) (Entered: 07/15/2020)
15/2020	<u>Ï</u> 7	Summons Issued as to Blue Cross of California, Providence Health Plan. (mclS, COURT STAFF) (Filed on 7/15/2020) (Entered: 07/15/2020)
17/2020	<u>Ï 8</u>	CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by Chris W., Jennifer W (Lilienstein, David) (Filed on 7/17/2020) (Entered: 07/17/2020)
30/2020	<u>Ï</u> 9	WAIVER OF SERVICE Returned Executed filed by Chris W., Jennifer W. Service waived by Blue Cross of California waiver sent on 7/16/2020, answer due 9/14/2020. (Lilienstein, David) (Filed on 7/30/2020) Modified on 7/30/2020 (mclS, COURT STAFF). (Entered: 07/30/2020)
10/2020	10	NOTICE of Appearance by Jose Dino Vasquez (Vasquez, Jose) (Filed on 8/10/2020) (Entered: 08/10/2020)
11/2020	11	Certificate of Interested Entities by Providence Health Plan identifying Corporate Parent Providence St. Joseph Health, Corporate Parent Providence Health & Services, Corporate Parent Providence Health & Services – Oregon for Providence Health Plan. (Vasquez, Jose) (Filed on 8/11/2020) (Entered: 08/11/2020)
12/2020	12	CLERK'S NOTICE Re: Consent or Declination: Defendant Providence Health shall file a consent or declination to proceed before a magistrate judge. Note that any party is free to withhold consent to proceed before a magistrate judge without adverse substantive consequences. The forms are available at: http://cand.uscourts.gov/civilforms. (Party/parties were also notified via telephone or email.) Consent/Declination

		Case 3:22-cv-00428-HZ Document 62 Filed 03/16/22 Page 4 of 7 due by 8/26/2020. (klhS, COURT STAFF) (Filed on 8/12/2020) (Entered: 08/12/2020)
19/2020]	13	CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by Providence Health Plan (Vasquez, Jose) (Filed on 8/19/2020) (Entered: 08/19/2020)
20/2020]	14	CLERK'S NOTICE of Impending Reassignment to U.S. District Judge (ecS, COURT STAFF) (Filed on 8/20/2020) (Entered: 08/20/2020)
20/2020]	<u>15</u>	ORDER, Case Reassigned using a proportionate, random, and blind system pursuant to General Order No. 44 to Judge James Donato for all further proceedings. Magistrate Judge Joseph C. Spero no longer assigned to the case. Notice: The assigned judge participates in the Cameras in the Courtroom Pilot Project. See General Order No. 65 and http://cand.uscourts.gov/cameras Signed by The Clerk on 8/20/20. (haS, COURT STAFF) (Filed on 8/20/2020) (Entered: 08/20/2020)
21/2020]	<u>16</u>	CASE MANAGEMENT SCHEDULING ORDER: Initial Case Management Conference set for 10/8/2020 10:00 AM. Case Management Statement due by 10/1/2020. Signed by Judge James Donato on 8/21/2020. (lrcS, COURT STAFF) (Filed on 8/21/2020) (Entered: 08/21/2020)
21/2020]	<u>17</u>	MOTION and [PROPOSED] Order for Extension of Time to File <i>Response to Complaint</i> filed by Providence Health Plan. (Vasquez, Jose) (Filed on 8/21/2020) Modified on 8/21/2020 (mclS, COURT STAFF). (Entered: 08/21/2020)
27/2020]	18	UNOPPOSED MOTION AND ORDER TO EXTEND TIME TO RESPOND TO COMPLAINT. Signed by Judge James Donato on 8/27/2020. (jdlc1S, COURT STAFF) (Filed on 8/27/2020) (Entered: 08/27/2020)
31/2020]	19	MOTION to Dismiss for Lack of Jurisdiction filed by Providence Health Plan. Motion Hearing set for 10/8/2020 10:00 AM in San Francisco, Courtroom 11, 19th Floor before Judge James Donato. Responses due by 9/14/2020. Replies due by 9/21/2020. (Attachments: # 1 Proposed Order)(Vasquez, Jose) (Filed on 8/31/2020) (Entered: 08/31/2020)
31/2020	<u>20</u>	Declaration of J. Dino Vasquez in Support of 19 MOTION to Dismiss for Lack of Jurisdiction filed byProvidence Health Plan. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2)(Related document(s) 19) (Vasquez, Jose) (Filed on 8/31/2020) (Entered: 08/31/2020)
31/2020]	<u>21</u>	Declaration of Aaron Bals in Support of <u>19</u> MOTION to Dismiss for Lack of Jurisdiction filed byProvidence Health Plan. (Attachments: # <u>1</u> Exhibit A)(Related document(s) <u>19</u>) (Vasquez, Jose) (Filed on 8/31/2020) (Entered: 08/31/2020)
03/2020]	22	STIPULATION WITH PROPOSED ORDER <i>Extending Time to Respond to Plaintiff's Complaint</i> filed by Blue Cross of California. (Fuller, Chad) (Filed on 9/3/2020) (Entered: 09/03/2020)
04/2020]	23	JOINT STIPULATION AND ORDER EXTENDING TIME TO RESPOND TO PLAINTIFF'S COMPLAINT. Signed by Judge James Donato on 9/4/2020. (jdlc1S, COURT STAFF) (Filed on 9/4/2020) (Entered: 09/04/2020)
08/2020]	24	NOTICE of Appearance by Jenna Uyen Nguyen (Nguyen, Jenna) (Filed on 9/8/2020) (Entered: 09/08/2020)
14/2020]	<u>25</u>	OPPOSITION/RESPONSE (re 19 MOTION to Dismiss for Lack of Jurisdiction) filed byChris W., Jennifer W (Attachments: # 1 Declaration of Katie Spielman)(Spielman, Katie) (Filed on 9/14/2020) (Entered: 09/14/2020)
18/2020]	26	ADR Clerks Notice re: Non–Compliance with Court Order. The parties have failed to file an ADR Certification as required by the Initial Case Management Scheduling Order. Counsel shall comply promptly with the requirements of ADR L.R. 3–5(b) and shall file the ADR Certification. (<i>This is a text–only entry generated by the court. There is no document associated with this entry.</i>)(cmf, COURT STAFF) (Filed on 9/18/2020) (Entered: 09/18/2020)
18/2020]	27	ADR Certification (ADR L.R. 3–5 b) of discussion of ADR options (Spielman, Katie) (Filed on 9/18/2020) (Entered: 09/18/2020)

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28	ADR Certification (ADR L.R. 3–5 b) of discussion of ADR options (Fuller, Chad) (Filed on 9/18/2020) (Entered: 09/18/2020)
29	ADR Certification (ADR L.R. 3–5 b) of discussion of ADR options by Defendant Providence Health Plan (Vasquez, Jose) (Filed on 9/21/2020) (Entered: 09/21/2020)
<u> 30</u>	REPLY (re <u>19</u> MOTION to Dismiss for Lack of Jurisdiction) filed byProvidence Health Plan. (Vasquez, Jose) (Filed on 9/21/2020) (Entered: 09/21/2020)
<u>31</u>	Declaration of Aaron Bals in Support of <u>30</u> Reply to Opposition/Response filed byProvidence Health Plan. (Related document(s) <u>30</u>) (Vasquez, Jose) (Filed on 9/21/2020) (Entered: 09/21/2020)
<u>32</u>	STIPULATION WITH PROPOSED ORDER to Reschedule Case Management Conference filed by Providence Health Plan. (Vasquez, Jose) (Filed on 9/28/2020) (Entered: 09/28/2020)
<u>†</u> 33	ORDER. The parties are reminded that they may not unilaterally change case management dates. See Standing Order for Civil Cases Before Judge James Donato. The case management conference and motion hearing will proceed as ordered. The case management statement is due by October 5, 2020, at 5 p.m. California time. Signed by Judge James Donato on 10/2/2020. (This is a text-only entry generated by the court. There is no document associated with this entry.) (jdlc1S, COURT STAFF) (Filed on 10/2/2020) (Entered: 10/02/2020)
<u> 34</u>	JOINT CASE MANAGEMENT STATEMENT filed by Chris W., Jennifer W., (Lilienstein, David) (Filed on 10/5/2020) (Entered: 10/05/2020)
<u>‡</u> 35	ORDER. The hearing set for October 8, 2020, at 10:00 a.m., will be for the initial case management conference only. The motion to dismiss, Dkt. No. $\underline{19}$, is suitable for decision without oral argument. Civil L.R. 7–1(b).
	The initial case management conference will be held by Zoom Webinar.
	Each party should designate a lead counsel to speak at the hearing by emailing the name of their lead counsel to Judge Donato's Courtroom Deputy, Ms. Lisa Clark, at jdcrd@cand.uscourts.gov by October 7, 2020, at 3:00 p.m. California time. The names for lead counsel are needed so that Ms. Clark can identify them during the Zoom hearing when the case is called. All lead counsel must call in fifteen minutes before the hearing to test internet, video, and audio capabilities.
	All counsel, parties, members of the public, and press may join the webinar using the link or information below:
	https://cand-uscourts.zoomgov.com/j/1617171523?pwd=VWJqM2ZYT1UvNFZ0ZHNZUUhGWTBCZz09
	Webinar ID: 161 717 1523 Password: 213597
	Or iPhone one–tap : US: +16692545252,,1617171523#,,1#,213597# or +16468287666,,1617171523#,,1#,213597#
	Or Telephone: Dial (for higher quality, dial a number based on your current location): US: +1 669 254 5252 or +1 646 828 7666
	PLEASE NOTE: Persons granted remote access to court proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings (including those held by telephone or videoconference). See General Order 58 at Paragraph III. Any recording of a court proceeding held by video or teleconference, including "screen—shots" or other visual copying of a hearing, is absolutely prohibited. Violation of these prohibitions may result in sanctions, including removal of
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		court-issued media credentials, restricted entry to future hearings, or any other sanctions deemed necessary by the court. Please see https://www.cand.uscourts.gov/zoom for information on preparing for and participating in a Zoom Webinar.
		Signed by Judge James Donato on 10/6/2020. (This is a text-only entry generated by the court. There is no document associated with this entry.) (jdlc1S, COURT STAFF) (Filed on 10/6/2020) (Entered: 10/06/2020)
07/2020	<u>36</u>	ORDER RE PERSONAL JURISDICTION. Signed by Judge James Donato on 10/7/2020. (jdlc1S, COURT STAFF) (Filed on 10/7/2020) (Entered: 10/07/2020)
08/2020	<u>37</u>	NOTICE of Appearance by Tammy Chu (Chu, Tammy) (Filed on 10/8/2020) (Entered: 10/08/2020)
08/2020	<u>38</u>	Minute Entry for proceedings held before Judge James Donato: Initial Case Management Conference held on 10/8/2020. (jdlc1S, COURT STAFF) (Date Filed: 10/8/2020) (Entered: 10/08/2020)
29/2020	<u>39</u>	AMENDED COMPLAINT <i>First Amended Complaint</i> against All Defendants. Filed byChris W., Jennifer W., (Lilienstein, David) (Filed on 10/29/2020) (Entered: 10/29/2020)
05/2020	40	SCHEDULING ORDER. Signed by Judge James Donato on 11/5/2020. (jdlc1S, COURT STAFF) (Filed on 11/5/2020) (Entered: 11/05/2020)
05/2020	Ï	Set Deadlines/Hearings: Jury Selection set for 2/28/2022 09:00 AM in San Francisco, Courtroom 11, 19th Floor before Judge James Donato. (lrcS, COURT STAFF) (Filed on 11/5/2020) (Entered: 11/06/2020)
16/2020	41	STIPULATION WITH PROPOSED ORDER <i>TO EXTEND TIME FOR ALL DEFENDANTS TO FILE RESPONSIVE PLEADINGS TO PLAINTIFFS FIRST AMENDED COMPLAINT</i> filed by Providence Health Plan. (Vasquez, Jose) (Filed on 11/16/2020) (Entered: 11/16/2020)
23/2020	42	STIPULATION AND ORDER TO EXTEND TIME FOR ALL DEFENDANTS TO FILE RESPONSIVE PLEADINGS TO PLAINTIFFS' FIRST AMENDED COMPLAINT. Signed by Judge James Donato on 11/23/2020. (jdlc1S, COURT STAFF) (Filed on 11/23/2020) (Entered: 11/23/2020)
(02/2020	43	STIPULATION WITH PROPOSED ORDER re 39 Amended Complaint filed by Providence Health Plan. (Vasquez, Jose) (Filed on 12/2/2020) (Entered: 12/02/2020)
04/2020	44	ORDER. At the parties' joint request, Dkt. No. <u>43</u> , defendants may respond to the amended complaint by December 22, 2020. No further extensions of this deadline are likely to be granted. Signed by Judge James Donato on 12/4/2020. (This is a text-only entry generated by the court. There is no document associated with this entry.) (jdlc1S, COURT STAFF) (Filed on 12/4/2020) (Entered: 12/04/2020)
08/2020	45	MOTION to Dismiss for Lack of Jurisdiction <i>Amended Complaint Pursuant to FRCP 12(B)(2) and Alternative 12(E) Motion</i> filed by Providence Health Plan. Motion Hearing set for 1/14/2021 10:00 AM in San Francisco, Courtroom 11, 19th Floor before Judge James Donato. Responses due by 12/22/2020. Replies due by 12/29/2020. (Attachments: # 1 Proposed Order)(Vasquez, Jose) (Filed on 12/8/2020) (Entered: 12/08/2020)
08/2020	<u>46</u>	Declaration of John Whipple in Support of <u>45</u> MOTION to Dismiss for Lack of Jurisdiction <i>Amended Complaint Pursuant to FRCP 12(B)(2) and Alternative 12(E) Motion</i> filed byProvidence Health Plan. (Related document(s) <u>45</u>) (Vasquez, Jose) (Filed on 12/8/2020) (Entered: 12/08/2020)
(08/2020	47	Declaration of Aaron Bals in Support of <u>45</u> MOTION to Dismiss for Lack of Jurisdiction <i>Amended Complaint Pursuant to FRCP 12(B)(2) and Alternative 12(E) Motion</i> filed byProvidence Health Plan. (Attachments: # <u>1</u> Exhibit 1)(Related document(s) <u>45</u>) (Vasquez, Jose) (Filed on 12/8/2020) (Entered: 12/08/2020)
08/2020	48	Declaration of J. Dino Vasquez in Support of <u>45</u> MOTION to Dismiss for Lack of Jurisdiction <i>Amended Complaint Pursuant to FRCP 12(B)(2) and Alternative 12(E) Motion</i> filed byProvidence Health Plan. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Related document(s) <u>45</u>) (Vasquez, Jose) (Filed on 12/8/2020) (Entered: 12/08/2020)

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22/2020	<u> 49</u>	ANSWER to <u>39</u> Amended Complaint <i>by Intel Corporation, the Intel Plan, and</i> byBlue Cross of California. (Sullivan, Donald) (Filed on 12/22/2020) Modified on 12/23/2020 (mclS, COURT STAFF). (Entered: 12/22/2020)
22/2020	<u> 50</u>	OPPOSITION/RESPONSE (re <u>45</u> MOTION to Dismiss for Lack of Jurisdiction <i>Amended Complaint Pursuant to FRCP 12(B)(2) and Alternative 12(E) Motion</i>) filed byChris W., Jennifer W (Attachments: # <u>1</u> Declaration of David Lilienstein, # <u>2</u> Exhibit 1 to Lilienstein Declaration)(Lilienstein, David) (Filed on 12/22/2020) (Entered: 12/22/2020)
23/2020	<u>Ï</u>	Electronic filing error. Document not properly linked. [err102]Corrected by Clerk's Office. No further action is necessary. Re: 49 Answer to Amended Complaint filed by Bl ue Cross of California. (mclS, COURT STAFF) (Filed on 12/23/2020) (Entered: 12/23/2020)
29/2020	<u>51</u>	REPLY (re <u>45</u> MOTION to Dismiss for Lack of Jurisdiction <i>Amended Complaint Pursuant to FRCP 12(B)(2)</i> and <i>Alternative 12(E) Motion</i>) filed byProvidence Health & Services, Providence Health Plan. (Vasquez, Jose) (Filed on 12/29/2020) (Entered: 12/29/2020)
12/2021	Ī 52	ORDER. The motion to dismiss, Dkt. No. <u>45</u> , is suitable for decision without oral argument. Civil L.R. 7–1(b). The motion hearing on January 14, 2021, is vacated. Signed by Judge James Donato on 1/12/2021. (This is a text-only entry generated by the court. There is no document associated with this entry.) (jdlc1S, COURT STAFF) (Filed on 1/12/2021) (Entered: 01/12/2021)
12/2021	<u> 53</u>	NOTICE of Change In Counsel by Chad R. Fuller <i>Notice of Withdrawal of Counsel for Blue Cross of California dba Anthem Blue Cross</i> (Fuller, Chad) (Filed on 1/12/2021) (Entered: 01/12/2021)
12/2021	<u> 54</u>	NOTICE of Change In Counsel by Jenna Uyen Nguyen Notice of Withdrawal of Counsel for Blue Cross of California dba Anthem Blue Cross (Nguyen, Jenna) (Filed on 1/12/2021) (Entered: 01/12/2021)
19/2021	<u>55</u>	MOTION for leave to appear in Pro Hac Vice (Filing fee \$ 317, receipt number 0971–15461604.) filed by Intel Corporation, Intel Corporation Anthem HDHP Plan. (Sullivan, Donald) (Filed on 1/19/2021) (Entered: 01/19/2021)
20/2021	<u> 56</u>	ORDER by Judge James Donato granting <u>55</u> Motion for Pro Hac Vice as to Nancy Pridgen. (lrcS, COURT STAFF) (Filed on 1/20/2021) (Entered: 01/20/2021)
10/2021	<u>57</u>	ORDER RE MOTION TO DISMISS. Signed by Judge James Donato on 8/10/2021. (jdlc1S, COURT STAFF) (Filed on 8/10/2021) (Entered: 08/10/2021)
19/2021	<u> 58</u>	STIPULATION <i>To Amend Scheduling Order</i> filed by Intel Corporation, Intel Corporation Anthem HDHP Plan, Chris W. and Jennifer W. (Sullivan, Donald) (Filed on 11/19/2021) Modified on 11/22/2021 (jml, COURT STAFF). (Entered: 11/19/2021)
13/2021	<u> 59</u>	AMENDED SCHEDULING ORDER. Signed by Judge James Donato on 12/13/2021. (jdlc1, COURT STAFF) (Filed on 12/13/2021) (Entered: 12/13/2021)
13/2021	<u>Ï</u>	Set Deadlines/Hearings: Designation of Experts due by 4/22/2022. Rebuttal Reports due by 5/20/2022. (lrc, COURT STAFF) (Filed on 12/13/2021) (Entered: 12/15/2021)
18/2022	<u> 60</u>	STIPULATION WITH PROPOSED ORDER <i>TO TRANSFER CASE TO DISTRICT OF OREGON, PORTLAND DIVISION</i> filed by Chris W., Jennifer W., Intel Corporation, The Intel Corporation Anthem HDHP Plan; and Blue Cross of California. (Lilienstein, David) (Filed on 2/18/2022) Modified on 2/22/2022 (jml, COURT STAFF). (Entered: 02/18/2022)
15/2022	61	ORDER TRANSFERRING CASE. Signed by Judge James Donato on 3/15/2022. (Irc, COURT STAFF) (Filed on 3/15/2022) (Entered: 03/15/2022)